

APPEAL NO. 032249
FILED OCTOBER 13, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 17, 2003. The hearing officer determined that the appellant's (claimant) impairment rating is 13%. The claimant appeals this decision. The respondent (carrier) urges affirmance of the hearing officer's decision.

DECISION

A timely appeal not having been filed, the decision and order of the hearing officer have become final pursuant to Section 410.169.

Records of the Texas Workers' Compensation Commission (Commission) reflect that the hearing officer's decision was mailed to the claimant on July 25, 2003, at the same address that was listed on the hearing appearance sheet. Pursuant to Section 410.202(a), for an appeal to be considered timely, it must be filed or mailed within 15 days, excluding Saturdays, Sundays, and holidays listed in the Texas Government Code, of the date of receipt of the hearing officer's decision. Applying Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d) (Rule 102.5(d)) and Section 410.202, the claimant was deemed to have received the hearing officer's decision on July 30, 2003, and the deadline for the claimant to file an appeal was August 20, 2003. A facsimile transmission of the claimant's appeal was received by the Commission on August 26, 2001. There is no indication that an additional copy was mailed to the Commission.

The claimant's request for review indicates that she received the hearing officer's decision and order on August 5, 2003, "for reasons unknown to her and by no fault of her own." In Texas Workers' Compensation Commission Appeal No. 94117, decided March 3, 1994, we stated "[w]here Commission records show distribution on a particular day to the address confirmed by the claimant as being accurate, a mere statement that the decision was not received in the mail is not sufficient to extend the date of receipt past the deemed date of [receipt established by Rule 102.5(d)]." The claimant's statement that she did not receive the decision until August 5, 2003, is insufficient to extend the period for filing a timely appeal. Because the claimant's appeal was not timely filed, the hearing officer's decision and order have become final pursuant to Section 410.169 and Rule 142.16(f).

The true corporate name of the insurance carrier is **(a certified self-insured)** and the name and address of its registered agent for service of process is

**FF
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Chris Cowan
Appeals Judge

CONCUR:

Margaret L. Turner
Appeals Judge

Edward Vilano
Appeals Judge